

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACK RAYMOND TOME,

Defendant.

CR-18-17-GF-BMM-1

ORDER

Defendant Jack Raymond Tome (“Tome”) filed a motion for compassionate release under 18 U.S.C. § 3582. (Docs. 42 & 47.) Tome pleaded guilty to the offense of Conspiracy to Possess with Intent to Distribute Methamphetamine. (Doc. 21.) The Court sentenced Tome to 78 months imprisonment, to be followed by 60 months supervised release on August 9, 2018. (Doc. 41.)

Tome submitted a request for compassionate release to Warden Bennett, of the Yankton Federal Prison Camp. (Doc. 44 at 1.). Warden Bennett denied Tome's request. (Doc. 44 at 3). Tome then submitted a pro se motion for compassionate release. (Doc. 42). The Government filed a response in opposition to the motion on July 28, 2021. (Doc. 43). Tome filed a reply on August 9, 2021. (Doc. 45). On

August 31, 2021, this Court appointed counsel to represent Tome in further proceedings on this matter. (Doc. 46.)

After considering the sentencing factors in 18 U.S.C. § 3553(a), the Court may reduce Tome’s sentence if “extraordinary and compelling reasons warrant such a reduction.” 18 U.S.C. § 3582(c)(1)(A)(i). The applicable factors from § 3553(a) may include the “nature and circumstances of the offense and the history and characteristics of the defendant,” the need for the sentence “to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense,” to deter criminal conduct and protect the public, and to provide effective correctional treatment, including education or vocational training and medical care. *See* 18 U.S.C. § 3553(a)(1), (2). The Court also may consider the advisory guideline range and the need to “avoid unwarranted sentencing disparities” among similarly situated defendants and to provide restitution to victims. *See id.* § 3553(a)(A), (6)-(7).

Tome seeks to be released from his sentence of incarceration. To justify such a release, the Court would require Tome to make a clear and convincing showing of both an extraordinary and compelling reason and satisfaction of the factors in § 3553(a).

A. Reason for Release.

Tome claims that his release is justified because COVID-19 continues to

mutate and his age and medical conditions make him susceptible to serious disease from a breakthrough COVID-19 mutation. (Doc. 48.) Tome is 66 years old and has chronic obstructive pulmonary disease among other medical issues. *Id.* at 6-7. Tome previously contracted COVID and was hospitalized for four days in Oklahoma. *Id.*

B. Section 3553(a) Factors.

Section 3553(a) factors include deterrence, just punishment, respect for the law, and avoidance of disparity of sentencing. *See* 18 U.S.C. § 3553(a)(2)(A)-(C). Granting Tome a reduction in his sentence of incarceration undermines these factors. The Court considered Tome's age and medical conditions when imposing his sentence below the guideline range. The Court determined that the sentence imposed was commensurate with the seriousness of the offense. Reducing Tome's incarceration would produce a disparity in sentencing. Moreover, Tome will be likely be released to home detention in February of 2022. (Doc. 48 at 10.)

Accordingly, **IT IS ORDERED** that Tome's motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A) (Docs. 42 & 47) is **DENIED**.

Dated this 1st day of November, 2021.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court